

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

SARA HARMON and JOSEPH  
HARMON,

Plaintiffs,

v.

CITY OF RACINE, SGT. RYAN  
COMSTOCK, INV. CHAD STILLMAN,  
INV. DONALD NUTTALL, and SGT.  
ROBERT THILLEMANN,

Defendants.

Case No. 18-CV-209-JPS

**ORDER**

On June 12, 2018, the plaintiffs filed an unopposed motion for leave to file a first amended complaint. (Docket #25). They attached as an exhibit to their motion the proposed first amended complaint. (Docket #25-1). In light of the defendants' assent, and because "justice so requires," Fed. R. Civ. P. 15(a)(2), the Court will grant the plaintiffs' motion.

The first amended complaint, (Docket #25-1), shall become the operative pleading in this case. *See Johnson v. Dossey*, 515 F.3d 778, 780 (7th Cir. 2008). The original complaint is withdrawn. *Id.* Therefore, the motion filed by defendants City of Racine, Chad Stillman, Donald Nuttall, and Robert Thillemann to dismiss the original complaint, (Docket #13), will be denied as moot. *See Maffiola v. State Farm Ins. Companies*, No. 09-CV-287, 2009 WL 2983059, at \*2 (W.D. Wis. Sept. 14, 2009) (Granting a plaintiff's motion for leave to amend "moot[s] defendant's motion to dismiss and

require[s] defendant to file a new motion if it believe[s] the new complaint remain[s] legally deficient.”).

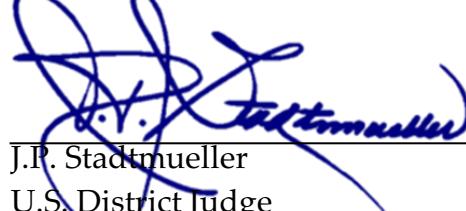
Accordingly,

**IT IS ORDERED** that the plaintiffs' motion for leave to file a first amended complaint (Docket #25) be and the same is hereby **GRANTED**; and

**IT IS FURTHER ORDERED** that the defendants' motion to dismiss (Docket #13) be and the same is hereby **DENIED as moot**.

Dated at Milwaukee, Wisconsin, this 13th day of June, 2018.

BY THE COURT:



J.R. Stadtmueller  
U.S. District Judge